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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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10/539,699

06/16/2005

Joseph W. Grez

US020549

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09/03/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

LE, HUYEN D

ART UNIT

PAPER NUMBER

3751

MAIL DATE

DELIVERY MODE

09/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                    |  |
|------------------------------|--------------------------------------|------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/539,699 | <b>Applicant(s)</b><br>GREZ ET AL. |  |
|                              | <b>Examiner</b><br>Huyen Le          | <b>Art Unit</b><br>3751            |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-7 and 12-20 is/are allowed.
- 6) ☐ Claim(s) 1,2,4 and 8 is/are rejected.
- 7) ☒ Claim(s) 9-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Ramirez (6,325,076).

The Ramirez reference discloses pump system comprising: a fluid cartridge member (21) made of flexible material, the fluid cartridge member having a fluid-filled portion and an exit opening for the fluid in the cartridge; a base member (20) having a cutout portion (cavity) into which the fluid-filled portion of the cartridge member (21) can nest; and a pressing member (37) having a nesting portion (the wheel) including a length and diameter which substantially match the cross-section of the cutout portion of the base member (see Fig. 9), such that, over at least a substantial portion of the length of the cutout portion, the nesting portion (the wheel) directly contacts the cartridge portion continuously across substantially the entire cutout portion, so that as the pressing member (37) is moved in operation forwardly over the cartridge, fluid is moved from the fluid-filled portion through the exit opening, with the flexible cartridge being flattened during such action substantially without creasing of the cartridge, the pressing member including two mounting elements (38) which extend outwardly from opposing ends of the nesting portion, the nesting portion being configured to nest with the cutout

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portion around its entire circumference, permitting the nesting portion to roll along the fluid-filled portion of the cartridge, pressing fluid out therefrom through the exit opening, a beginning part of the cutout portion being narrower than the length of the nesting portion of the pressing means but tapers outwardly to a point where the nesting portion fully nests within the cutout portion.

3. Claims 1-2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kraals. (4,270,672).

The Kraals reference discloses pump system comprising: a fluid cartridge member (18) made of flexible material, the fluid cartridge member having a fluid-filled portion and an exit opening for the fluid in the cartridge; a base member (10) having a cutout portion 16 into which the fluid-filled portion of the cartridge member (18) can nest; and a pressing member (38) having a nesting portion (40) including a length and diameter which substantially match the cross-section of the cutout portion of the base member, such that, over at least a substantial portion of the length of the cutout portion, the fluid-filled portion and the pressing member (38) substantially nest with the cutout portion, so that as the pressing member (38) is moved in operation forwardly over the cartridge, fluid is moved from the fluid-filled portion through the exit opening, with the flexible cartridge being flattened during such action substantially without creasing of the cartridge, the pressing member including two mounting elements (42) and (44) which extend outwardly from opposing ends of the nesting portion (40) (see Fig. 4), a beginning part of the cutout portion 35 being narrower than the length of the nesting

portion of the pressing means but tapers outwardly to a point where the nesting portion fully nests within the cutout portion.

***Allowable Subject Matter***

4. Claims 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 5-7, 12-20 are allowed.

***Response to Arguments***

6. Applicant's arguments filed on 05/19/2008 with respect to claims 1 have been considered but are moot in view of the new ground(s) of rejection.
7. Applicant's arguments with respect to Kraals (on page 6, paragraph 4<sup>th</sup>) have been fully considered but they are not persuasive. The mounting elements 42 and 44 of Kraals extend sufficiently from the opposing ends of the nesting portion 40 (as shown in Fig. 4). The pressing member 38 is movable by action on the mounting elements (i.e. the mounting elements slidable on the edges 12 and 14).

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Huyen Le  
Primary Examiner  
Art Unit 3751

HL